



Rt Hon Alistair Burt MP
Minister of State for the Foreign and Commonwealth Office
Foreign and Commonwealth Office
London SW1A 2AH

For the urgent attention of: Rt Hon Alistair Burt MP

24 September 2018

Dear Minister Burt,

Urgent second letter: JCB Limited's involvement in the impending demolition of Khan al-Ahmar that is in breach of its human rights responsibilities and may amount to aiding and abetting a war crime

We write following your reply dated 12 September 2018 to our letter dated 5 July, in regard to the concerns we raised on JCB Limited's involvement in the pending demolition of Khan al-Ahmar and the prohibited forcible transfer of its residents. The urgency of our concerns have been heightened by the acute development yesterday that the residents of Khan al-Ahmar were issued with a written order by Israeli military authorities to self-demolish their structures by the deadline of Monday 1 October, otherwise the Israeli authorities will carry out the demolition themselves.

We thank you for your reply. We are particularly encouraged that British Consulate officials were present in Khan al-Ahmar on 4 July 2018 to closely observe the pre-demolition process; the submission of a letter by the UK with other European states to Israeli Prime Minister Netanyahu on 31 July; and your assurance that the UK is committed to encouraging fostering respect for the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.

We note in your reply that the UK's enquiries following the 4 June incident has led to the finding that demolitions are carried out by private contractors on behalf of Israel's military authorities. On the assumption that this is indeed correct, we understand your analysis that 'these private contractors would be the owners of any relevant equipment'. We agree with the distinction you are making between JCB as producers of the vehicles, the Israeli military authorities as instructors of the demolition, and private contractors as the implementers. We accept that there are several different relationships to consider. We would however like to supplement the analysis in your letter by clarifying that such a situation would not absolve JCB from its own business and human rights responsibilities.

Our understanding is that Comasco Ltd/Israel (Comasco) is JCB's distributor in Israel. Therefore, the contractual relationship for the supply of JCB products, such as excavators, to private contractors and / or the Israeli authorities may be between Comasco (rather than JCB) and private contractors / Israeli authorities. Even if this is the case, however, the UNGPs and OECD Guidelines make clear that JCB still has a responsibility to: "seek to prevent or



mitigate adverse human rights impacts that are directly linked to their operations, *products* or services by their business relationships, even if they have not contributed to those impacts” (UNGP 13). The term “business relationships” is stated to include “relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services.” On this basis, JCB clearly has a business relationship with Comasco, and apparently also the owners of the equipment whether it be private contractors or Israeli authorities. JCB should therefore be taking steps to prevent or mitigate the use of its equipment in the demolition of Khan al-Ahmar. Failure to do so would lead to a breach of the JCB's business and human rights obligations under the UNGPs and OECD Guidelines that the UK government is committed to promoting.

We would therefore like to request clarity on whether Government officials have sought direct dialogue with JCB as part of its enquiries. If so, we would be grateful to learn if this included asking the company to take all necessary measures to ensure its compliance with the UNGPs/OECD Guidelines, as outlined in our letter dated 5 July 2018. Please can you also confirm if the company responded and the details of that response.

Finally, we would like to request that British Consulate officials continue to closely monitor developments in Khan al-Ahmar, including the involvement in demolitions of equipment manufactured by UK companies. In this context, we would also like to reiterate our suggestion that the UK Government instigates and provide support for the establishment of expert and independent observation and investigation teams to document apparent criminal offences linked to demolitions in the occupied West Bank, including in Khan al-Ahmar. We believe this appropriate accountability measure is urgently required as a potentially effective deterrent against the impending demolition.

We are grateful for your continued careful consideration of this exceptionally grave issue. We look forward to your reply to this urgent follow-up letter at your earliest convenience.

Yours sincerely,

Tareq Shrourou (Director), Claire Jeffwitz and Natalie Sedacca
Lawyers for Palestinian Human Rights